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October 12, 2004

Commissioner of Patents & Trademark
United States Patent & Trademark Office
Washington, D. C., 20231

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Examiner: Gary Hartmann
ART UNIT 3671
RE: Response to Office Action.

Applicant: Max Kadiu
Application Number: 10/792,354

Attorney Docket No.:

Dear Sir:

Transmitted herewith for filing is the reply to Election/Restriction requirement of the above-identified patent application according to the Office Communication Mailed on September 21, 2004.

Thank you for your prompt response and kind consideration. Should you have any questions or need additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,



Max Kadiu, Ph. D.
The Applicant

Enclosures: Elections/Restrictions: 2 pages
FIG. A; FIG. B (explicative only).



DETAILED ACTION

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9 and 11-15, drawn to a shoring system, classified in class 405, subclass 282.
- II. Claim 10, drawn to a shoring system, classified in class 405, subclass 272.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombinations (MPEP § 806.05 (c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Invention I does not require the mono-guide linear rails. The subcombination has a separate utility such as a fence, for example.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Applicant is advised that reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Although as claimed Invention I does not requires particularities of Invention II and vice-versa, the inventions may happen to be used ensemble in practice. FIG. A shows the Invention I used for shoring the deep section of an excavation while the Invention II shores the shallow section of same excavation. Inventions I and II preserve common functional and structural compatibility as being part of same invention. Also, some combination claims recite specific features of subcombination like shoring panel and strutting assembly. During detailed description of the invention the combination and subcombination are described as variation of one to the other but not as separate shoring systems.

As shown in FIG. B, when used on its own, the subcombination remains within scope of shoring excavations, but the shallow ones, where need to slide past each other two or more shoring panels is neither required nor imposed. It also shows that subcombination does not have separate or other utility than shoring.

The formulation of claims for combination, as separate from subcombination, is intended to extend the domain of their application related to the depth of excavation by adopting each other features but also preserving there independent use based on technical circumstances.

Based on the above comments, it is requested hereby that Claim 10 be accepted as part of invention represented by claims 1-9 and 11-15. If the above demand is rejected, this would be the request to select Claims 1-9 and 11-15 as proper to invention to be examined; consequently, Claim 10 (including corresponding drawings) is admitted as abandoned.

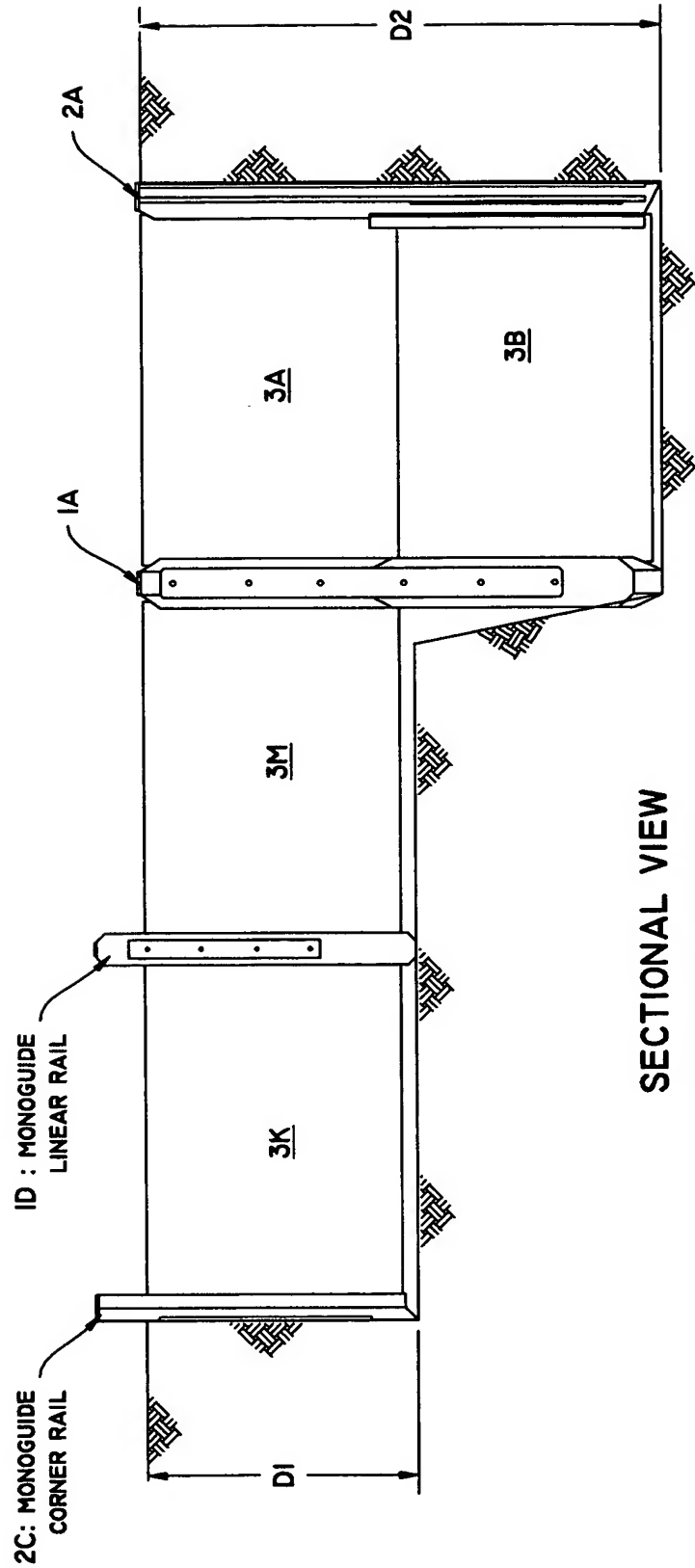
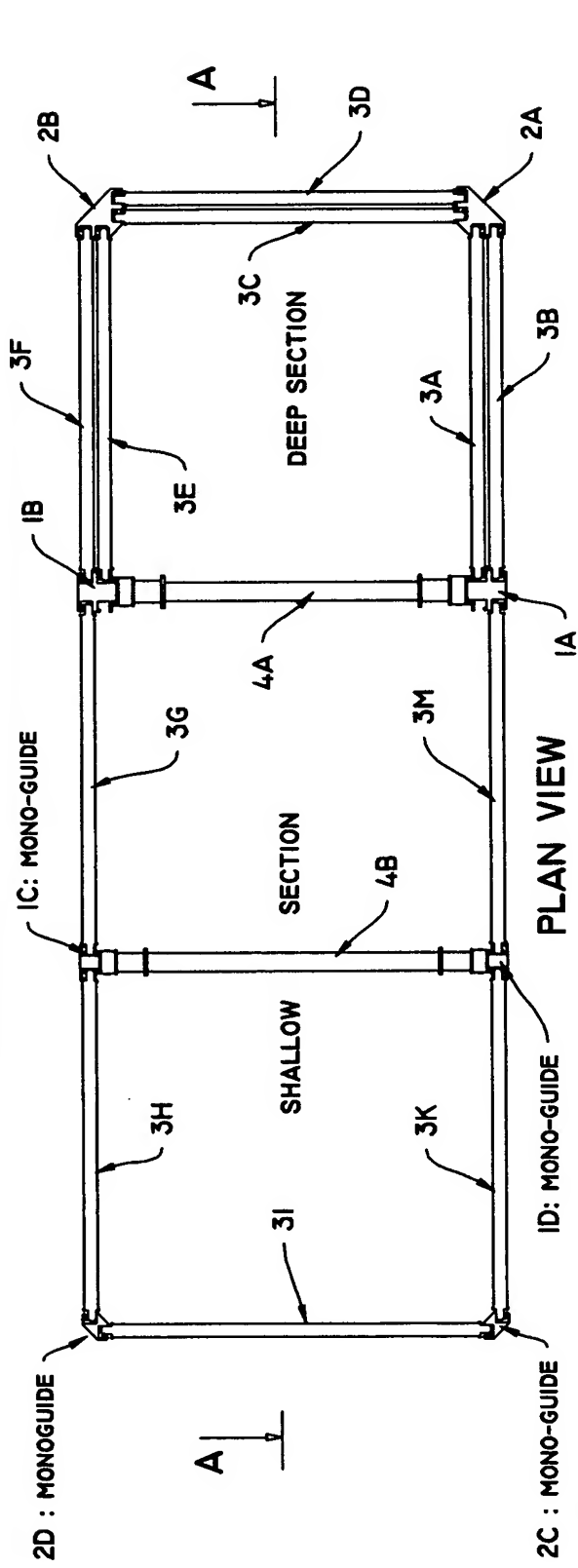
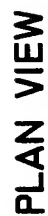


FIG. A



F/G/B